INFORMATION LETTER

Not for Publication — NATIONAL CANNERS ASSOCIATION — For Members Only

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House Group Acts To Extend Mexican Farm Labor Program

The Gathings Subcommittee of the House Agriculture Committee announced April 8 that it had approved a revised draft of a bill, H.R. 9875, to amend and extend P.L. 78, authorizing the Mexican farm labor program.

The Subcommittee bill would extend P.L. 78 for two years—through June 30, 1963—and would clarify the intent of Congress that nothing in P.L. 78 or in the Wagner-Peyser Act shall be construed to confer any authority on the Secretary of Labor to regulate wages, hours, prerequisites, or other conditions of employment of domestic farm workers.

The Subcommittee deleted from the bill a provision that would have required that regulations under the Mexican farm labor program be approved by the Secretary of Agriculture as well as by the Secretary of Labor.

The Subcommittee bill is pending in the House Agriculture Committee, which is not expected to meet for its consideration for at least two weeks.

Two days before the Subcommittee vote, Secretary Mitchell, in a speech before the National Travelers Aid Association in Washington, declared: "It is the Department of Labor's position that Public Law 78 should not be extended unless and until adequate remedial measures are adopted and substantial improvements are made in the program." He promised to make recommendations for improving the operation of the Mexican farm labor program "before the present law runs out."

Minimum Wage for Agriculture

The Secretary also disclosed that a Labor Department report, scheduled for release at the end of this month, will show that a "minimum wage for hired farmworkers is both feasible and desirable," that it "would apply to a relatively small percentage of farm employers, all of them large, who hire a substantial portion of the hired farm help in the United States, and would not apply to the small family farmer."

"To assume, of course, that such legislation would receive the appropriate attention of Congress in a political year is to avoid the realities of society," Secretary Mitchell added. "I am releasing this report, however, so that ample discussion and thought can be given to it, in sufficient time and detail, to insure a meaningful consideration in the next Congress."

N.C.A. Files Statement Opposing Proposal in House Bill To Authorize Marketing Orders on Canning Crops

The N.C.A. submitted a statement to the House Committee on Agriculture on April 11 in opposition to provisions in the Poage bill, H.R. 10355, which would authorize marketing orders on processing crops.

The statement enunciated N.C.A.'s historic opposition to mandatory marketing controls on canning crop production, as affirmed in numerous Association resolutions.

H.R. 10355 is designed as an omnibus farm bill. One section would amend the Agricultural Marketing Agreement Act of 1937 so as to authorize marketing orders on fruits and vegetables for processing. The bill would authorize marketing orders on a nationwide basis (see INFORMATION LETTER of March 5, page 91).

The N.C.A. statement explains in detail how marketing orders, if authorized, would be applied to canning crops, and reviews the harmful effects such orders would have on growers, canners, canning employees, and consumers.

It was pointed out that marketing orders, which are compulsory, would regulate every facet of what the canner may do; what and where he may pack and how he may market the finished canned food, packed in his own cannery; and embodying principally values in cans, labor and financing that the canner has contributed; and in the merchandising of which he has devoted his lifetime and upon which the future success of his business turns.

The mandatory controls that could be imposed, against the canner's judgment as to their wisdom, would not be operated by the canner, but by others. To pay for administering a marketing order, private assessments would be made against the canner alone, and he would have no say over how much is to be collected or how it is to be spent. If the canner disobeys, he would be subjected to vast civil and criminal penalties.

The N.C.A. pointed out also that in existing marketing order programs the bulk of the value of the product is not in the processing, and the marketing of the product is highly seasonal; whereas in canning the canner has the largest investment in the finished product and year-round marketing necessitates preseason planning of production.

Attention was directed to the fact that there is no need to bring fruits or vegetables for canning or the canned food products under compulsory marketing order control authority. Congress has recognized this eight times in the past 22 years by rejecting such proposals.

The N.C.A. statement was accompanied by 18 charts and tables showing how under a free market the production of canning crops has increased in the last 25 years and how growers and consumers have benefited from the present marketing system.

Text of the N.C.A. statement, without the charts and tables, is reproduced beginning on page 135.

The telephone number of the National Canners Association's headquarters in Washington, D. C., has been changed to

FEderal 8-2030

For Direct Distance Dialing (station to station only) the number is

202 FE 8-2030

Status of Legislation

Senate and House bills of particular interest to the canning industry are described below, together with a report of their current status:

Antitrust enforcement—S. 11 and H. R. 11, to strengthen the Robinson-Patman Act with respect to alleged price discrimination, are pending before the Senate and House Judiciary Committees, respectively. (N. C. A. has registered its opposition.) S. 716, to authorize the Justice Department to compel the production of documents in civil antitrust cases, was passed by the Senate last year and is pending before the House Antitrust Subcommittee.

Cease-and-desist orders—H.R. 8841, to amend the Federal Trade Commission Act to provide for the issuance of temporary cease-and-desist orders to prevent certain acts and practices awaiting the outcome of FTC proceedings, is pending before the House Interstate and Foreign Commerce Committee.

Color additives—S. 2197, to amend the Federal Food, Drug, and Cosmetic Act with respect to the use of color additives, was passed by the Senate last year, with amendments, and is pending before the House Interstate and Foreign Commerce Committee. Hearings on this and a similar bill, H. R. 7624, have been recessed. Secretary Flemming will testify again on April 22. (See INFORMATION LETTER of Feb. 13 for a report of N.C.A.'s position.)

Co-op bargaining—H.R. 1793, to authorize cooperative associations of producers to bargain with purchasers singly or in groups, is pending before the House Judiciary Committee.

Co-op marketing—S. 2014, to authorize associations of agricultural producers to own and operate marketing facilities, is pending before the Senate Agriculture Committee.

Family farm income act—H.R. 10355 and similar bills pending before House Agriculture Committee would make canning crops subject to nationwide marketing orders and provide for collective bargaining for price. Hearings have been recessed. N.C.A. filed a statement April 11 (see story, page 131).

Farm labor—H.R. 9875, to amend and extend Title V of the Agricultural Act of 1949, was approved by the Gathings Subcommittee April 8 and is pending in the House Agriculture Committee (see story, page 131).

Federal preemption—H.R. 3, to establish rules of interpretation concerning the effect of an Act of Congress on state laws, was passed by the House last year and is pending before the Senate Internal Security Subcommittee which conducted hearings last year on a similar bill, S. 3. (N.C.A. has requested that federal food regulatory laws be excluded from the scope of these bills.)

Marketing orders—The following bills are pending in the Agriculture Committees: H.R. 642, to provide flexibility; H.R. 1070, to extend applicability and coverage; H.R. 9693 (May), fruits; H.R. 10355, Family Farm Income Act; H.R. 10555 (Horan), fruits; S. 3207 (Williams of Del.), block voting; S. 3233 (Jackson-Magnuson), fruits; and S. 3318 (Morse), berries.

Migrant labor—The following bills are pending before the Senate Subcommittee on Migratory Labor: S. 1778 and S. 2498, to require crew-leader licensing; S. 1085 and S. 2141, to regulate the wages and hours of migrant farm workers and their children; and S. 2864 and S. 2865, to provide funds for the education of migrant farm workers and their children. Companion bills have been introduced in the House, including H.R. 11547 (Walter), an omnibus bill.

Poultry marketing—S. 2516 and similar bills to promote orderly marketing are pending before a Senate Agriculture Subcommitte which held hearings Feb. 25-26.

Pre-merger notification—H.R. 9896 and S. 442, to amend the Clayton Act to provide for prior notification and suspension of certain mergers and acquisitions, are pending before the House Judiciary Committee. H.R. 2325 is pending before the House Antitrust Subcommittee.

Price-increase hearings—H.R. 6263, to authorize the Government to hold public hearings on price or wage increases, prospective or actual, which appear to threaten national economic stability, has been reported by the House Government Operations Committee. S. 2382 and S. 64 are pending before the Senate Banking Committee, which held hearings Feb. 24-26.

Price-increase notification—S. 215, to require certain corporations to file advance notice of proposed price increases, is pending before the Senate Antitrust and Monopoly Subcommittee. (N.C.A. has filed a statement opposing S. 215.) H.R. 4934 is pending before the House Judiciary Committee.

Wage-hour—S. 1046 (Kennedy), to increase the minimum wage and curtail the overtime exemptions of fruit, vegetable, and fish canners, is pending before the Senate Labor Committee. (N.C.A. has filed a statement opposing changes in the exemptions.) H.R. 4488 and other bills are pending in the House Subcommittee on Labor Standards, which held hearings this week. Secretary Mitchell is scheduled to testify April 21.

N.C.A. Nominates Dr. Wiley to American Hall of Fame

The National Canners Association has officially nominated the late Dr. Harvey W. Wiley, father of the Pure Food Law, for the Hall of Fame for Great Americans. Famous Americans are selected once every five years by a College of Electors made up of some 150 prominent people throughout the country—college presidents, authors, scientists, and others. This will be the Thirteenth Quinquennial Election and the selections will be announced next October.

In the formal nomination the statement was made that as a "Successful crusader for laws to guarantee the safety and purity of America's foods, Dr. Wiley made possible this nation's attainment of the highest living standard of the civilized world. The Law he fathered in 1906 protected the honest and conscientious businessman from the competition of those that would foist debased or fraudulent food on consumers. Thus his efforts made pure and wholesome food the standard diet of the American public."

In a letter supporting the formal nomination, Executive Secretary Carlos Campbell pointed out that the canning industry gave strong support to Dr. Wiley's campaign for pure food legislation, that he was the first guest speaker at the meeting when N.C.A. was established in 1907, and that the first official resolution on the historic minute books of this organization urged the passage of certain appropriation bills to implement the new law. The earliest activities of the new Association were devoted to matters connected with the new law.

"Association policy was to make the law beneficial to the public and the industry alike. As a consequence, the good faith of the Association and the industry was established early and has persisted. Every Food and Drug Commissioner from Wiley to the present time has made public acknowledgment of our continuous cooperative work on food standards, with the result that this industry 'provides an outstanding example of self-regulation at its best.'"

Social Security Taxes

The House Ways and Means Committee, which has been meeting almost daily on social security legislation, has before it a proposal to raise the taxable wage base under the OASI program from $4,800 to $6,000. The Committee is expected to take up this subject again next week.

Meat Canned in March

(Agricultural Marketing Service of USDA)

	3 Lbs. & over	Under 3 Lbs.	Total
	(*thousands of pounds*)		
Luncheon meat	12,171	11,983	24,154
Canned hams	27,586	889	28,475
Beef hash	469	4,692	5,161
Chili con carne	576	9,394	9,971
Vienna sausage	132	4,351	4,483
Frankfurters and wieners in brine	28	188	216
Deviled ham	59	893	952
Other potted and deviled meat products	11	3,595	3,606
Tamales	237	2,882	3,119
Sliced, dried beef	28	228	256
Chopped beef	.....	755	755
Meat stew	121	8,989	9,110
Spaghetti meat products	100	9,324	9,514
Tongue (not pickled)	22	65	87
Vinegar pickled products	751	1,271	2,021
Sausage	.....	550	550
Hamburger	357	2,445	2,802
Soups	1,662	53,412	55,074
Sausage in oil	299	411	710
Tripe	15	432	447
Brains	53	227	280
Loins and picnics	3,127	176	3,303
All other products 20% or more meat	334	6,544	6,878
All other products less than 20% meat (except soup)	819	24,939	25,758
Total	49,048	148,637	197,685

Columns do not add to totals shown in all cases since rounded figures are used. Amounts packed for defense are not included in these items. Total production, including quantities for defense agencies, was 202,901 thousand pounds.

Research on Cannery Wastes

A paper was presented at the Southern Municipal and Industrial Waste Conference by James Bell of the N.C.A. Washington Laboratory. The topic was "Spray Irrigation and Current Research of Canning Plant Wastes."

This was the Ninth Annual Meeting sponsored by North Carolina State College, University of North Carolina, and Duke University. This year's meeting was held on the Campus of North Carolina State College, April 7-8. Attendance included state, county, and city health and pollution control officials, representatives of many colleges, and industry personnel.

USDA Poultry Inspection

Notice is given in the *Federal Register* of April 15 that the Agricultural Marketing Service of USDA proposes to amend its regulations governing the voluntary grading and inspection of poultry. Among the proposals are an increase in charges for certain inspection services.

FDA Stays Order on Orange Juice Standards

The FDA announced in the *Federal Register* of April 13 that objections were filed to its order establishing definitions and standards of identity for orange juice and orange juice products, and that the order is stayed in its entirety.

FDA will announce later the date and place of the public hearing to be held on the orange juice standards.

N.C.A. Consumer Service

Moselle Holberg, Assistant Director of the Consumer Service Division, spent eight days during the latter part of March contacting food leaders in Delaware, Maryland, New Jersey, and New York State. Information useful in the preparation of materials was gathered from the leaders, and the N.C.A. educational materials, recipe books and release services were discussed and offered.

Conferences were held with the deans and food and nutrition staffs of home economics, extension agents in food marketing, home demonstration leaders and 4-H Club specialists at the University of Delaware, College of Agriculture of New Jersey, and Cornell University.

Miss Holberg met with state and city supervisors of home economics and school lunch, county home agents, city marketing information specialists, newspaper food editors, radio and television people and directors of utility companies in Trenton, Newark and New Brunswick, N.J., and in Wilmington, Del., and Baltimore, Md.

N.C.A. 'Protective Screen'

The "protective screen" program of the canning industry, by which canners take steps to prevent the use of harmful pesticides on canning crops, is described in a feature article by Dr. Charles H. Mahoney, Director of the N.C.A. Raw Products Research Bureau, in the April issue of the magazine *American Fruit Grower*. This publication, serving commercial fruit growers, has a circulation of 136,994 readers. The same article is scheduled for the May issue of *American Vegetable Grower* a sister publication, which reaches another 62,474 growers.

Dr. Mahoney, who prepared the article specifically for this grower readership, described the action program adopted at the Miami Convention, the aim of which is to help growers deliver fruits and vegetables free of uncertified pesticides or within legal pesticide tolerances. It outlined the steps N.C.A. has taken with canners' fieldmen, growers, experiment station, extension workers and others to effectuate the safety program.

Canner Elected To Head Users of Special Industrial Radio

Austin J. Hayden of the Green Giant Company was elected president of the Special Industrial Radio Service Association at its 8th annual meeting, held in Hollywood, Fla., April 10-12. Dr. Edwin A. Crosby, Assistant Director of the N.C.A. Raw Products Research Bureau, was elected assistant treasurer.

SIRSA has among its active members licensees in the Special Industrial Radio Service and trade associations representing industry groups eligible for licensing in this Service. Organized in 1953, SIRSA was recognized in 1958 by the FCC as the sole frequency coordinating agency for Special Industrial Radio Service within the continental United States. Through its counsel, the interests of Special Industrial Radio licensees are represented actively before the FCC. SIRSA also keeps its members, totaling more than 1,500, informed on all matters of two-way radio operation of concern to licensees in this service.

Other representatives of the canning industry at the SIRSA meeting were Carl A. Barnes of California Packing Corporation and Hugh W. Schwarz of the Florida Canners Association.

A keynote address at the meeting, "Greater Profits through the Use of Radio," was given by Richard Hanson, vice president of Halliburton Oil Well Cementing Co., the largest user of two-way radio in the U. S. Industry group meetings were held by representatives of agriculture, mining, heavy construction, and other such groups for discussion of problems associated with the use of radio in their particular industries. A panel of radio manufacturers' representatives discussed new radio equipment and its application to industrial use.

Canners interested in learning of the benefits to be derived from membership in SIRSA should direct their inquiries to G. Kenneth Adams, 814 Sheraton Bldg., 711 14th St., N.W., Washington 5, D. C.

Prospective Planted Acreage of Vegetables Is Up 2%

Prospective planted acreage of seven vegetables for commercial processing is about 2 percent more than last year and 7 percent less than average, according to the Crop Reporting Board of USDA. The indicated changes in planted acreage compared with last year are:

Green lima beans up 15 percent, snap beans up 6 percent, cabbage for kraut (contract acreage only) up 14 percent, sweet corn down 3 percent, green peas up 5 percent, winter and early spring spinach down 7 percent, and tomatoes down 1 percent.

These seven vegetables usually account for about 84 percent of the planted acreage of the 10 vegetables for processing covered in the regular USDA reports. The intended acreages are based on reports from processors and reflect intentions up to April 1.

Sweet Corn for Processing

The planted acreage of sweet corn for processing in 1960 is expected to total 438,370 acres. This would be 3 percent below last year's planted acreage and 5 percent below the 1949-58 average.

If abandonment of acreage and yield are in line with the average for the past four years, a production of approximately 1,500,000 tons could be expected. This tonnage would be 3 percent below last year but 9 percent above average.

The acreage intended to be planted for canning is 5 percent less than last year but the acreage intended for freezing is up 12 percent.

State	10-year ave. 1949-58	1959	1960 Prospective	Percent change from 1959
	(acres)	(acres)	(acres)	
Maine	7,100	4,000	3,300	−18
N. Y.	24,400	22,400	21,100	− 6
Pa.	12,000	8,800	9,000	+ 2
Ohio	10,600	6,100	5,600	− 8
Ind.	25,200	17,700	16,600	− 6
Ill.	62,600	63,400	63,300	....
Wis.	106,500	114,000	109,000	− 4
Minn.	89,200	95,900	95,700	....
Iowa	23,100	9,600	6,000	−38
Del.	4,600	5,700	5,600	− 2
Md.	32,700	35,700	32,200	−10
Idaho	10,100	12,200	12,700	+ 4
Wash.	14,700	17,700	21,000	+19
Ore.	14,700	17,900	20,900	+17
Other states [1]	22,100	18,900	16,370	−13
U. S. Total	459,700	450,000	438,370	− 3
For canning and other processing	[2]396,500	381,920	362,050	− 5
For freezing	[3] 64,800	68,080	76,320	+12

[1] Ark., Calif., Colo., La., Mich., Mont., Nebr., N. H., N. J., Okla., S. D., Tenn., Texas, Utah, Vt., Va., and Wyo. [2] Six-year ave., 1953-58; estimates not available prior to 1953.

Snap Beans for Processing

The planted acreage of snap beans for processing in 1960 is expected to total 184,650 acres, 6 percent more than last year and 29 percent above the 10-year average.

An acreage of 139,850 intended for canning would exceed last year by 4 percent and would be a record high. If abandonment and yield are equal to the averages of the past six years, production for canning would amount to 305,600 tons.

Also, 44,800 acres are intended for freezing. If abandonment and yield are equal to the averages of the past six years, the tonnage of snap beans for freezing would be about 106,600 tons, almost a fifth larger than that of last year.

State	10-year ave. 1949-58	1959	1960 Prospective	Percent change from 1959
	(acres)	(acres)	(acres)	
Maine	2,500	2,100	2,300	+10
N. Y.	32,100	40,700	43,000	+ 6
Pa.	5,500	6,100	8,400	+38
Mich.	7,000	7,500	8,300	+11
Wis.	15,900	25,400	23,000	− 9
Del.	2,800	4,900	4,700	− 4
Md.	11,000	11,100	9,600	−14
Va.	4,000	2,800	2,500	−11
N. C.	2,800	4,000	4,000	....
S. C.	970	1,000	1,200	+20
Fla.	10,600	8,700	12,200	+40
Tenn.	6,000	7,700	8,500	+10
Ark.	5,400	5,700	5,900	+ 4
La.	840	700	600	−14
Okla.	3,600	5,500	5,700	+ 4
Texas	8,000	10,500	11,700	+11
Colo.	1,500	1,800	1,700	− 6
Wash.	2,300	1,600	2,000	+25
Ore.	8,800	11,300	12,700	+12
Calif.	2,700	3,800	3,900	+ 3
Other states [1]	8,900	11,100	12,750	+15
U. S. Total	143,200	174,000	184,650	+ 6
For canning and other processing	119,100	134,750	139,850	+ 4
For freezing	34,970	39,250	44,800	+14

[1] Ala., Ga., Idaho, Ill., Ind., Iowa, Ky., Minn., Miss., Mo., Nebr., N. H., N. J., N. M., Ohio, Utah, Vt., and Wyo. [2] Five-year ave., 1954-58; estimates not available prior to 1954.

Cabbage for Kraut

The acreage of cabbage to be planted under contract in 1960 will be 8,990 acres, 14 percent more than the 7,880 acres planted last year but slightly below the 1949-58 average of 9,100 acres. The estimated acreage includes acreage to be grown by packers and contracted with growers as well as an equivalent acreage for tonnage contracts.

Citrus Fruit Production and Utilization

The 1959-60 crop of oranges (not including tangerines) is estimated at 130 million boxes, only 300,000 boxes more than last year's crop but 9 percent above average, according to the Crop Reporting Board of USDA.

The grapefruit crop is estimated, on the basis of April 1 conditions, at 41.6 million boxes, 5 percent less than last year and 3 percent below average.

Utilization

Utilization of the orange crop totaled 72.5 million boxes as of April 1, with 43 million boxes used by processors and 29.5 million boxes used fresh. A year ago at the same date processors had taken 41.5 million boxes and 27.9 million boxes had been used fresh.

Utilization of grapefruit by April had totaled 31.7 million boxes, of which 17.4 million were for fresh use and 14.3 million were used by processors. A year ago processors had taken 15.8 million boxes by April 1 and 15.7 million boxes had been used fresh.

Green Lima Beans

Processors report that they intend to plant and grow 97,290 acres of green lima beans for processing. This is 15 percent more than last year's planted acreage but 9 percent below average.

If their reported acreage is planted and abandonment is equal to average, approximately 90,100 acres would be available for harvest.

The acreage intended for canning is up 6 percent.

State	10-year ave. 1949-58	1959	1960 Prospective	Percent change from 1959
	(acres)	(acres)	(acres)	
N. Y.	3,500	970	1,100	+13
Pa.	4,400	2,200	2,000	− 9
Mich.	2,300	1,600	1,600	....
Wis.	7,000	4,500	5,600	+24
Del.	22,200	18,800	20,300	+ 8
Md.	4,700	2,200	2,400	+ 9
Va.	4,100	650	600	− 8
Wash.	1,500	1,300	1,600	+23
Calif.	25,100	22,700	28,000	+23
Other states [1]	31,700	29,950	34,090	+14
U. S. Total	106,500	84,870	97,290	+15
For canning and other processing	[2]37,470	31,580	33,540	+ 6
For freezing	[2]66,880	53,290	63,750	+20
Fordhooks	[3]24,100	16,980	19,650	+16
Baby limas	[3]38,080	36,310	44,100	+21

[1] Ark., Colo., Fla., Ga., Idaho, Ill., Ind., Iowa, Minn., Mo., N. J., Ohio, Okla., Ore., Tenn., and Utah. [2] Seven-year ave., 1952-58. [3] Two-year ave., 1957-58; estimates not available for prior years.

Text of N.C.A. Statement to the House Agriculture Committee on Proposal To Authorize Marketing Orders on Canning Crops

Following is the text of the N.C.A. statement opposing the proposal in H.R. 10355, the so-called "Family Farm Income Act of 1960," which would amend the Agricultural Marketing Agreement Act of 1937 so as to authorize marketing orders on fruits and vegetables for processing:

The National Canners Association is a nonprofit trade association consisting of 650 members canning in 48 of the 50 states and the territories. Members of the Association, including both independent canning companies and cooperative canning enterprises, pack approximately 75 percent of the entire national production of canned fruits, vegetables, specialties, meat, and fish.

This statement, presented by the Association on behalf of the canning industry, is addressed specifically to Section 101 of Title I, Part I of H.R. 10355, introduced by Congressman Poage and at least eighteen other Representatives and designed to enact the "Family Farm Income Act of 1960." Section 101 would amend the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. § 601, 608c) in several very significant respects, and would extend the applicability of marketing orders to a number of commodities not presently covered.

Of primary interest to the canning industry is the fact that section 608c (2) of the Agricultural Marketing Agreement Act would be amended to permit compulsory marketing orders to be applied to *all* fruits and vegetables for canning and to the finished canned fruits and vegetables themselves.

In addition, the already comprehensive regulatory controls that may be imposed under mandatory marketing orders would be broadened to establish one of the most far-reaching *exemptions from the antitrust laws* that Congress has ever seriously considered.

Finally, section 608c(11) would be amended to provide that a marketing order may be made applicable to the entire *national* production of an agricultural commodity or any product thereof.

In presenting our objections to section 101 of H.R. 10355, we will first outline in some detail the impact that compulsory marketing orders, as authorized by the present Act, would have upon canning crops and canned foods. We will then discuss the additional provisions that would be authorized by the proposed amendments to sections 608c(7) and (11).

The Application of Marketing Orders to Canning Crops and Canned Foods

Legislation designed to apply mandatory marketing orders to canned foods or canning crops has been introduced in Congress repeatedly since 1933, and has been the subject of extensive hearings eight separate times—1934, 1935, 1937, 1939, 1940, 1947, 1948, and 1954. With the benefit of this exhaustive examination, exploration and study, Congress has consistently recognized the compelling reasons for rejecting this economic regulation of fruit and vegetable canners.

Now, once more, it has been proposed that the compulsory marketing order provisions of the Agricultural Marketing Agreement Act be applied to all canned foods. As before, the proposal is supported by little else than an apparent desire to experiment with regulatory systems that contradict the basic assumptions of a competitive economy. As before, there is no real need cited, and there are no satisfactory answers to the objections that have led Congress to reject such proposals in the past.

Initially, it can be said that economic regulation of business is generally regarded as inherently inferior to the capitalistic method of free enterprise. Whenever the federal government has departed in the past from the ideal of economic freedom, it has done so only upon a most convincing showing of necessity. The regulated industries have typically been in the transportation or utility fields, where unique problems apparently make competition less workable. Seldom, if ever, has Congress sanctioned a comprehensive regulatory scheme for a commercial competitive industry.

Proponents of mandatory marketing orders in the past have been quick to emphasize that the regulation is decentralized, and is carried on primarily on the local level by those who are regulated. The first part of this statement is only half-true, and the second part wholly unfounded.

As will be shown below, the Secretary of Agriculture is directly involved in the formulation, operation and termination of compulsory marketing orders. The specific orders are generally administered by committees of growers appointed by the Secretary. Even though the Act presently provides that orders shall be limited in application to the smallest regional production area practicable, nationwide orders would almost certainly be imposed for most canning crops. Canned foods compete on a national level, and production is spread from one end of the country to the other. Thus, decentralization could only be a reality for the everyday administration of the order, if that, and certainly not for formulation of the terms of the order and operating policy.

But even if the Secretary's role is minimized, and even if some amount of local autonomy were possible, mandatory marketing orders are no less objectionable. The economic freedom of the canner would still be destroyed, and it would make little difference to him whether he was regulated by a local grower organization or a Washington bureau.

Thus, marketing orders for canning crops and canned foods are subject to at least two very basic objections, aside from any consideration of their practical effect on growers, canners and consumers. They are *undemocratic*, and they are *anti-competitive*.

These terms are not meaningless labels—they are accurate factual characterizations; not denied by marketing order proponents, just ignored. An examination of how these orders operate will disclose the extent to which the canner would be regulated.

Perhaps the most convenient method for describing what can be done under a marketing order is to quote from a question and answer pamphlet prepared by the Department of Agriculture in November of 1954, entitled "Marketing Agreements for Fruits and Vegetables." (Emphasis supplied throughout.)

Q. "What is the distinction between a marketing agreement and a marketing order?"

A. "A marketing agreement is a voluntary contract entered into by the Secretary of Agriculture and a handler of a particular agricultural commodity. Such an agreement affects only those who sign it. If every handler in a particular industry signed a marketing agreement, there would be no necessity of a marketing order.

"A marketing order is an order issued by the Secretary of Agriculture which makes the terms of the marketing agreement program effective upon all handlers in the industry, *irrespective of whether they sign the agreement*. In other words, a marketing order is a method by which the terms of the program can be made effective upon an entire industry."

Q. "Under what conditions can a marketing order be issued?"

A. "A marketing order for any eligible agricultural commodity can be issued only under the following circumstances:

"(a) At least two-thirds of the growers by number, or by volume of product covered by the program must approve the issuance of the marketing order. The two-thirds majority means two-thirds of those participating in a referendum and not two-thirds of all growers in the industry.

"(b) The handlers of not less than 50 percent, by volume of the commodity covered by the marketing agreement, must sign the agreement.

"(c) If, however, handlers fail or refuse to sign the agreement, the Secretary may nevertheless, issue an order (except grapefruit for canning

or freezing) if he finds and determines that it is the only practical means of advancing the interests of producers, and that the failure of handlers to sign the agreement tends to prevent the effectuation of the declared policy of the act."

This difference between a marketing *agreement* and a compulsory marketing *order* is frequently glossed over by proponents of marketing order legislation, who typically lay great emphasis on the self-help characteristics of marketing *agreements*. Clause (c) quoted above, based upon section 608c(9) of the Act, makes it unequivocally clear that a marketing order may be *imposed* upon the producers and handlers of an agricultural commodity, even though one-third of the producers and *all* of the handlers actively oppose it. Canners could be subjected to comprehensive regulation of every aspect of their operations if two-thirds of the producers voting in a referendum favor a proposed order.

The next question concerns the permissible area to be covered:

Q. "What area may be included in a marketing agreement or marketing order?"

A. "There is no specified area which must be included under a marketing agreement or marketing order, but the statute requires that any marketing agreement or marketing order be limited to the smallest regional production area practicable."

This provision would be changed by H.R. 10355, as will be explained below.

Next we come to the incidence of the controls imposed under a marketing order:

Q. "What is regulated under a marketing agreement or marketing order?"

A. "The *burden of regulation* under a marketing agreement program *falls upon handlers*. The term 'handler' is defined in the marketing agreement and order and means the person who markets the product. There is no authority to regulate a producer in his capacity as a producer. However, if a producer markets his own product he then becomes a handler and is subject to the terms of the order. The statute does not permit the regulation of a retailer in the capacity of a retailer."

Not only may they be subjected to an order against their wishes, but "the burden of regulation under a marketing agreement program falls upon handlers." Although the avowed purpose of a marketing order program is to aid the grower, it is the canner who will be regulated, controlled, and deprived of all authority to make his own commercial decisions in the purchase of the raw product and, more importantly, the marketing of his finished product.

The next question and answer lays out what type of regulation is involved:

Q. "What type of regulation may be included under a marketing agreement or marketing order?"

A. "The statute provides several types of regulatory activity. Any one or a combination of the following methods may be used in a marketing agreement or marketing order:

"(a) *Regulation of quality.* This is usually accomplished by specifying the grade, size, quality or maturity of the product which may be shipped to market.

"(b) *Regulation of quantity.* This method of regulation involves the establishment of the quantity of the product which may be shipped to market during a specified period. The total quantity is allocated among all handlers on the basis of either past performance of handlers, or the amount of product each handler has available for current shipment.

"(c) *Reserve pools.* This method involves the establishment of a reserve pool of the product, and the equitable distribution of returns derived from the sale thereof.

"(d) *Surplus control.* This type of regulation involves determining the extent of a surplus, providing for the control and disposition thereof, and equalizing the burden of surplus elimination among producers and handlers.

"(e) *Containers.* A regulation may be undertaken to fix the size, capacity, weight, dimensions, or pack of containers which may be used in marketing fresh or dried fruits, vegetables, or tree nuts, provided that no action may be taken which is in conflict with Standard Container Acts.

"(f) *Research projects.* Provisions may be made to undertake marketing research and development projects for the purpose of improving the marketing, distribution and consumption of the commodities covered. This may include marketing research projects and those aimed at disseminating educational information for the purpose of increasing consumption of the commodities involved. It does not authorize advertising or sales promotion programs.

"In addition to the above, one or more of the following types or methods of regulation may be included in a marketing agreement or marketing order:

"(a) *Unfair trade practices.* A method may be provided for prohibiting unfair methods of competition and unfair trade practices in the handling of agricultural commodities.

"(b) *Price posting.* This involves the requirement that handlers file their selling prices and such handlers are not permitted to sell at prices lower than such prices as filed. Handlers may change the prices at any time, but adequate notice must be given thereof.

"(c) *Additional provisions.* Such other terms may be included which are incidental to and necessary to effectuate the provisions of the program."

The regulatory controls described above are authorized in section 608c (6) and (7) and are summarized in Exhibit 1 under the heading "What A Marketing Order Can Do."

Every aspect of the canner's operation, including planning, procurement, processing, production and marketing, is thus subject to rigid control under a compulsory marketing order, imposed by *grower* vote and administered by *grower* committees, under supervision at certain stages only by the Secretary of Agriculture.

To emphasize some of the terms of an order that might be imposed upon canners, a canner can be told where he must obtain his raw product, the quantity he may obtain from each grower, the quality, grade and size. The regulation must be on an historical basis, thereby creating a completely static industry by eliminating possibilities for entry for new growers or new processors.

The effect of these provisions is to replace the judgment and independent determinations of individual canners and growers with the judgment of a *group* of *growers*. The experience acquired by canners through many years of operating as independent businessmen, fully responsible for their own decisions, is set aside, in favor of what the *growers* alone think is advisable with regard to raw material production and *to processing* and merchandising of the canned product.

Orders may also provide for surplus and reserve pools, despite the fact that the crop before processing is highly perishable. Since the canner is paying for the administration of these orders, he may find himself in the position of paying for crops he will never receive.

Aside from this extensive regulation of the raw product, marketing orders may also be used to impose restrictions on the *finished* product. Orders may limit the amount and size and grade of the *canned* product that may be shipped by canners to each consumer market.

Objectionable as determinations by a group of growers may be with regard to regulation of the *raw* product, similar grower regulation of the *canned* product, in which the canner has the sole financial investment, becomes utterly indefensible. Canners, and canners alone, have had the responsibility to process and market their own product, in the light of their own judgment. Independent decisions, competitively made, have been primarily responsible for the current position of the entire canning industry and of individual canners.

This independence would now be sacrificed, competition would be eliminated, and all decisions would be made by a group of growers with no experience in the marketing and distribution of the canned product.

Despite the fact that the canning industry has always been a pioneer in marketing research and development, it is now proposed that these grower committees will be able to undertake such programs—at the canner's expense. We shall never understand why Congress should pass a law giving to inexperienced committees the authority to assess canners for vaguely defined marketing and development projects when the industry has traditionally excelled in this regard. Such duplication can mean only one thing—a higher priced product with no attendant benefit to any of the parties concerned.

The committees are also to be given sweeping authority to prohibit unfair methods of competition and unfair trade practices—a Congressional mandate almost without limitation. The antitrust laws, enforced and administered by the Department of Justice and the Federal Trade Commission, would no longer apply to growers and canners. Instead, the Secretary of Agriculture and his grower committees would be the sole judge as to what restrictions should be imposed upon growers and canners.

The make-up of these administering committees is left to the discretion of the Secretary of Agriculture. Section 608c(7)(C) of the Act authorizes the inclusion of a provision in an order "providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties" with regard to administering the order.

Canners would thus be assured of no place on the committee, and although the Secretary has appointed handlers as members, they are always a minority.

Of course, even if one or more canners were appointed by the Secretary, the individual canner would still be stripped of all responsibility with regard to his own operation. Commercial decisions traditionally left in a free economy to the individual businessman, farmer or canner, would be made by a small, grower dominated group, under the supervision of a Department of the Federal Government. No amount of canner representation could mitigate this basic objection to the regimentation of marketing order controls.

What about the expenses of administering a marketing order?

Q. "How is a marketing agreement or marketing order financed?"

A. "The statute specifies that the cost of administration of a marketing agreement or marketing order shall be *financed by assessments upon handlers.* The administrative committee prepares a budget each year, together with a proposed rate of assessment, and makes such recommendations to the Secretary of Agriculture. The Secretary fixes the total amount which the committee may spend and levies an assessment upon handlers in order to obtain funds to finance the program. The assessment is ordinarily in terms of so much per box, bag, or other unit of product shipped during each season. The committee is responsible for all expenditures. If more money is collected than necessary to finance the program it is credited to the handlers for the following year, or paid back on a pro rata basis. The committee is required to keep accurate books and records and an audit of its books is conducted at least once a year."

This makes it entirely clear that it is the *canners* who will pay for a program, imposed against their will upon a vote of the growers, administered by a committee *dominated by growers,* and yet regulating the canner in every phase of his operations.

Q. "How are regulations devised and issued?"

A. "The Administrative Committee is responsible for recommending to the Secretary of Agriculture appropriate regulation of shipments. It should be remembered that the marketing agreement and marketing order, except in a few instances where minimum standards of quality and maturtiy are set forth *are enabling documents and merely specify the type and permissible scope of the regulation;* no specific regulations covering any particular period of time are ordinarily included. The Administrative Committee is required to analyze crop and market conditions and recommend to the Secretary of Agriculture appropriate regulations and the period of time during which they should be made effective. Such a recommendation is transmitted to the Secretary and, if approved, an appropriate order is issued. This method permits the *representatives of the industry* (sic) to devise the type of regulation which should be made effective for the industry as a whole. All such regulations must be published in the *Federal Register.* If there is a short crop, or for other reasons no regulation is necessary, the agreement and order can be suspended or remain inoperative. There is no requirement that the program be operated continuously each season."

The committees recommend regulations, which are issued by the Secretary. Here again it is clear that the canner will be regulated by people, less familiar with the industry than he himself, who have no financial interest in the canned product.

The comment about the suspension of an order if there is a short crop ignores the fact the production controls must necessarily be applied at the beginning of the season. Suspension of an order after knowledge of crop loss will ordinarily be too late to have any favorable effect on supply for that season.

On the question of enforcement:

Q. "How is a marketing agreement and marketing order enforced?"

A. "The enforcement of a marketing agreement and marketing order is primarily the responsibility of the Federal Government, but the Administrative Committee is charged with the duty of investigating and reporting complaints of violation. If a violation is discovered, it is investigated and turned over to the Department of Justice for prosecution. If regulations are based upon the grade, size, quality or maturity of the product marketed, it is necessary to have mandatory inspection of all shipments in order to enforce the terms of the regulation. There are three types of legal action which may be taken against a person who violates an order:

"(a) Civil action to obtain an injunction. This will prevent the person from further violation of the order.

"(b) Criminal action may be brought in court and if convicted a person may be fined not less than fifty dollars and not more than five-hundred dollars for each violation.

"(c) Civil suit may be instituted for triple damages, under which a person may be required to pay three times the value of the product shipped in violation of the order."

In a canner violates an order he is paying for but does not want, he can be enjoined from doing so, he can be fined up to five hundred dollars for each violation, and he is liable for treble damages in a private civil action.

The injustice of this type of regulation—with this arsenal of penalties—is apparent when it is realized that the *canner* will be exposed to new criminal and civil actions, even though there is no charge or implication that canners are presently in any way responsible for the imagined difficulties of the grower.

No Demonstrated Need for Marketing Orders to Cover Canning Crops or Canned Foods

Now that the operation of marketing orders with regard to canning crops and canned foods has been outlined, it is relevant to consider *whether they are necessary.*

Whatever may be said for the need for this complicated system of economic regulation for some agricultural commodities, there is *no demonstrated need* for the application of marketing orders to canning crops and canned foods.

Clearly, restrictions on free economic activity and competition should be imposed *only* when serious evils are shown to exist *and* it is reasonable

to expect the proposed regulation will remove those evils without creating new ones. In addition, the interests of all affected parties should be recognized and respected. Consumers, canners and growers have a mutual interest in a healthy food processing industry that supplies large quantities of high-quality canned fruits and vegetables at prices fair to everybody.

None of these prerequisites to business regulation are present here. First of all, no evil is shown to exist. We have attached to this statement a number of charts to demonstrate why marketing orders for canning are entirely unnecessary and are not adaptable to the canning industry.

These charts have been drawn to compare the record of the canning and processing industry as it was in 1934 and as it has developed through the years, up to 1959, without the restrictions of marketing orders or the subsidies of other types of farm programs. We picked 1934 because that was the year that the agitation began for involuntary Government controls of canned food production—supposedly to develop more and better markets for canning crops. In addition, the three-year average for 1934-36 is compared with the average for the three most recent years for which data are available (1956-58 or 1957-59).

Our first two charts (Exhibits 2 and 3) show the astounding over-all increase in the production of fruits and vegetables for processing between 1934 and 1959. The production of fruits for processing increased from 3.4 million tons in 1934 to 9.3 million tons in 1958 and for vegetables from 2.6 million tons in 1934 to 6.9 million tons in 1959. Production of fruits for processing in 1959 was 274 percent of 1934 and for vegetables 265 percent of 1934. At the same time the population of the United States in 1959 had increased to only 140 percent of what it was in 1934. The next chart (Exhibit 4) shows the increase in per capita consumption of processed fruits and vegetables. The number of pounds per capita of these products annually consumed in the United States has tripled—it has gone from 35 pounds to 107 pounds per capita.

The five maps (Exhibits 5 through 9) illustrate the growers' side of this development and show the vast increase in tonnage of canning crops which have gone into this increased production. Equally important, they show the striking fashion in which states that 25 years ago had either little or no production, today enjoy vast tonnages of canning crop.

These maps inescapably reveal that any control of canning crops for processing—necessarily based on historical patterns—would have forestalled this tremendous development. The first map shows the story on peas (Exhibit 5). Each mark represents 1,000 tons for processing. The circles show the production in 1934, and the dots the increase by 1959. The increases in the Midwest are striking—the 1959 pea tonnage for processing in Illinois was 1900 percent of what it was in 1934. There were vast increases in Minnesota and Pennsylvania, and most dramatic has been the increase in the Pacific Northwest.

The next map (Exhibit 6) shows the same story for snap beans. Here there was a phenomenal increase in the tonnage for snap beans for processing in very many areas including Florida, Texas, Oregon, New York, Wisconsin, Arkansas, Tennessee, California, and Washington.

The map for sweet corn (Exhibit 7) indicates that there have been large increases in the Mid-Atlantic States, in the Midwest, and once again in the Pacific Northwest.

The map for canned tomatoes (Exhibit 8) makes clear the large increases in Florida, Pennsylvania, Ohio, Michigan, Texas, and Illinois—and the amazing story of California of a phenomenal increase in tonnage grown for processing.

The last map (Exhibit 9) shows the similar increase and distribution by states for asparagus. The remarkable shift in the production of asparagus away from California to other areas resulted at least in part from the use of state marketing orders in California, while the balance of the country was free to expand.

All of these maps make it abundantly clear that any attempt to control canning crops would have to be on a national basis. Canned products from every producing area meet competitively on grocery store shelves. Moreover, there is very great competition among different canned foods. Curtailment of production in any one State would not be meaningful. It would simply shift production to other areas.

The next three charts show the dramatic increase in the proportion of fruits and vegetables that are processed. In the first we have set forth the comparison of production for canning in equivalent units between 1934 and 1959 of apples, cherries, peaches and pears (Exhibit 10). The next chart shows the same story for sweet corn, peas, snap beans, asparagus and tomatoes (Exhibit 11). The third chart (Exhibit 12) shows an even more dramatic story of production of citrus for processing. This is broken down for oranges, grapefruit and lemons, for which the increases in tonnage have been remarkable.

The increases in tonnage have brought large cash returns to the growers in these areas for each of these crops. The next chart (Exhibit 13) shows the increase in price per ton on a comparable basis for the five major vegetables for processing since 1934. But this is not the entire story. For in the case of these major vegetables, the yields per acre grown for processing have increased tremendously with the development of new varieties, mechanization and improved cultural techniques developed by growers and canners working together. The changes in yield per acre since 1934 are shown in Exhibit 14.

The next two charts show the increased prices per ton for four deciduous fruits (Exhibit 15) and for citrus fruits (Exhibit 16). Along with tremendously increasing volumes, the increase in price per ton of these fruits has been indeed substantial.

The canning industry has developed vastly increased markets for canned fruits and vegetables, and the return to the grower has increased. None of this would have been possible unless the canning industry had made itself so efficient that these products could in turn be sold to consumers at prices that are attractive.

The final chart (Exhibit 17) shows that canned fruits and vegetables have been delivered to the consumer at prices far below those of other foods. Not only has this industry increased its markets, opened up vast new canning areas, but it has also over the past 25 years provided consumers with the "best buy" in the market basket. It has done all of this within a free economy and without mandatory marketing controls imposed upon it. Instead, the relationship between canner and grower has typically been one of complete freedom, within an over-all atmosphere of cooperation.

Vegetable growers have for a number of years operated under a system that gives them the greatest degree of freedom and flexibility. Before the planting season they are offered canning-crop contracts, at competitive prices. If the price is not attractive, they can reject the offer and turn their land to other crops. If the contract looks profitable, they proceed without the usual risks attendant to so many farm operations.

Under canner-grower contracts, the canner typically provides high-quality seed, as well as continual advice or assistance in growing, harvesting and crop treatment. He may even lend the grower money or advance a part of the contract price. When the crop matures, the grower knows he has a buyer who will take the entire production from the contracted acreage.

Many of the risks that usually accompany agricultural endeavor are therefore transferred from the grower to the canner. He takes the crop at the agreed upon price, regardless of market changes. He puts the product into a nonperishable state, and then undertakes to market it. If there has been oversupply, the economic loss is the canner's, but at least the product is now nonperishable and need not be marketed immediately.

This system of contract farming has been developed through trial and

error over a long period of years. Currently much is heard of vertical integration and its advantages or disadvantages. We believe that the traditional canner-grower relationship provides most of the benefits of integration without its attendant limitations.

Another point that should be emphasized is the canner's unique position in relation to other segments of the food industry. A frequently heard justification for regulatory farm programs is that the numerous middlemen are reaping increasingly large profits at the expense of the farmer. That this has not been the case for canners is made clear in a print published by the Senate Committee on Agriculture and Forestry in November of 1955, entitled *Price Spreads in the Canning Industry.* This brief report should be read in its entirety, but it is well here to quote the initial paragraph:

"Income and cost data for approximately 25 percent of the fruit and vegetables canned in the fiscal year 1954-55 indicate that canners had a net income before taxes of 3.70 percent of sales and a net profit of 2.03 percent of sales after payment of Federal income taxes."

The accompanying table (Exhibit 18), taken from Dun & Bradstreet, Inc. figures, shows that the canners' net profits as a percentage of net sales have been above 5 percent in only one year since 1931.

It is difficult indeed to understand the proposal for mandatory marketing order legislation for canning crops. The industry has an unusually fine record of growth and development, and no quarrel can be found with the performance of canners in serving the public at a modest profit.

Harmful Effects of Applying Marketing Orders to Canned Foods and Canning Crops

The basic purpose of any compulsory marketing order program is to limit production, and thereby raise the price of the commodity. It is thought that by this method the grower can increase his yearly net income, but any realistic consideration of the problems connected with canned fruits and vegetables compels the conclusion that restricted production and higher prices can only lead to serious difficulties.

First of all, nature is unpredictable and has never been known to cooperate consistently with the well ordered plans of men. At some given year a system of production limitations (in the case of marketing orders for canning crops, effected indirectly by restricting what each handler can take from each grower) may work, to the extent that normal consumer demand for a high-quality product is satisfied, but not surpassed. But it is just as likely that unforeseen natural phenomena will result in a smaller crop than expected, or in lower quality. By that time the production limitations put into effect at the *beginning* of the season cannot be changed. Under those circumstances, the individual grower, whose production already has been restricted by marketing order controls, will not be able to grow his allocated quota of a high-quality product.

A second factor frequently ignored by advocates of marketing orders is that higher prices do not automatically lead to greater profits. The cross elasticity of foods has been shown to be fairly high—that is, the housewife is constantly shopping for the best bargains, and if a particular product is too expensive she will purchase alternative products.

Few foods have a fixed demand. Thus, an elaborate program designed to limit production and adjust prices may well result in consumer rejection. And once consumers stop buying a product, it may take more than a lower price to induce them to purchase it again on a regular basis.

A third objection to production limitations is that they tend to stifle growth and development. Charts have already been referred to that reflect the astounding increases in the packs of processed fruits and vegetables. Per capita consumption of these products has risen steadily.

If marketing and production controls had been applied in earlier years there is no question but that the industry could not have approached this record. Improved grower and canner techniques have spurred marketing innovations, and vice versa. New and improved products gain consumer acceptance, which soon turns into a growing demand. Individual canners and growers are constantly experimenting, testing, and investing in order to gain a larger share of the market.

A fourth factor related to those listed above is that any system of production limitations, even if implemented through restrictions on what canners can purchase, must *eventually operate upon individual growers.* Some means must be found to allocate a quota to each grower before planting begins. The only satisfactory method yet developed to accomplish this has been upon an historical basis.

Production is thereby geared to past performance, and the flexibility so necessary to a dynamic industry is sacrificed. There is no incentive for the efficient grower who can increase production and quality at lower cost, for he knows his production quota can only rise proportionately with other growers in his area.

This allocation of quotas on an historical basis also operates disadvantageously for areas and States that would otherwise be inclined to produce a crop not previously grown. The maps portraying the increased production since 1934 make it clear that if marketing orders had restricted production to early 1930 levels, many States now producing thousands of tons of canning crops could never have done so.

It is inconceivable that any program of regulatory controls could effectively deal with these factors. Supply and demand operating on a competitive system within which each grower and canner responds as his experience and knowledge dictate have so far more than satisfied the interests of everybody concerned.

The vital grower-canner relationship is the point on which all competing interests are balanced. Unless that relationship is governed by freedom of choice—reflecting estimates of the economic situation, consumer demand, available supply, quality of product, personal trust and confidence, and efficiency of operation—the inevitable result is an imbalance that can only operate to everybody's disadvantage.

A familiar tactic of those proposing the application of marketing orders to canning crops is to inquire into the mutuality of interest of growers and canners. Canners are frequently heard to stress the mutuality of interest between canners and growers, and marketing order proponents argue from this that canners should have no reason to fear administration of marketing orders by grower committees. This conclusion presumes an *identity* of interest between the two parties, not just a large area of common interests.

Most canners and growers recognize that both will benefit from a system of cooperation in the producing of a high-quality product. The consumer must be satisfied if canned foods are to be sold, and both canners and growers cooperate to achieve this result. But there is nevertheless an area where the two parties must bargain—where their interests are not identical, and a compromise agreement must be made. This area typically includes price and other conditions to the contract.

An important point to note in regard to this bargaining is that the consumer's interest is here represented by the canner's knowledge and *experience with marketing factors* relating to merchandising the *finished canned food.* The grower is in no position to know or appreciate consumer tastes and demands. The canner is, and he takes these into consideration when negotiating for the quantity, quality, yield and price of the raw product.

Thus, if the grower is left to establish price, quality, yield and quantity on his own, as he would through a grower referendum on the order itself or through grower committee administration of marketing orders, not only would there be an imbalance in

favor of growers, but there would also be a concomitant neglect of the consumer's interest.

Even the most far-sighted group of growers could not help but give some distortion to the supply and demand factors. No reasonable figures could be established without precise knowledge of marketing conditions, and it is the canner more than any other party who has this information. More importantly, all interests can be balanced only through the system of a competitive market.

Proposal to Authorize Collective Bargaining and Stipulation of Prices Under Federal Marketing Orders

Up to this point, our statement has concerned itself with the proposal in section 101(a)(1) of H.R. 10355 to authorize the application of compulsory marketing orders to canning crops and canned foods. We have so far dealt with the Agricultural Marketing Agreement Act of 1937 as it now stands. But section 101(a)(3) of the bill would amend subsection 608c(7) of the Act to grant even greater authority to the Secretary of Agriculture and the administering committees than they now have.

This proposal would add to the terms that may be included in an order by adding a new paragraph (E) to subsection 608c(7), which would read:

"(E) Establishing or providing for the establishment of standards governing the negotiation of contractual agreements with existing firms engaged in marketing or processing of any agricultural commodity listed in section 8c(2), concerning stipulation of prices, volume, shipping dates, transportation carrier, grades, and size, both previous to and during marketing season, and governing the terms of sale of any agricultural commodity in connection with negotiating such contractual agreements, and providing that the expense of administering such order be paid from funds collected pursuant to the marketing order."

It is difficult to say exactly what is intended by this new provision, for we have seen no explanation by its proponents. By its terms, the section authorizes the inclusion in mandatory marketing orders—which would be administered by committees selected by the Secretary of Agriculture—provisions establishing "standards governing the negotiation of contractual agreements" with marketing or processing firms, concerning stipulation of prices, volume, grades, and size, and standards "governing the terms of sale of any agricultural commodity in connection with negotiating such contractual agreements."

Ostensibly the Secretary *or a committee appointed* by him could decide that the negotiation of contractual agreements with marketing or processing firms should be handled on a collective basis—the producers dealing as a group with the processors as a group. Going further, the committee itself could stipulate minimum prices at which commodities could be sold, and could outline in detail the "terms of sale of any agricultural commodity."

In addition, section 101(a)(2) of the bill would amend section 608c(3) of the Act to provide an all-encompassing antitrust immunity, to the effect that "the formulation of the terms of any such order for proposal to the Secretary or the carrying out of any provisions of this section shall not be in violation of any of the antitrust laws of the United States and shall be deemed lawful."

At the present time the Act contains explicit antitrust immunity only for marketing agreements, in section 608b, but the courts have made it clear that activities pursuant to a marketing order also share this immunity. *United States* v. *Borden Co.*, 308 U.S. 188, 201-02 (1939) (dictum); *United States* v. *Universal Milk Bottle Service, Inc.*, 85 F. Supp. 622, 630 (S.D. Ohio 1949) (dictum).

This antitrust immunity already precludes action by the Government or by individuals against a party acting pursuant to a marketing agreement or order authorized by the Act. The proposed amendment would make this point clear beyond doubt, and would grant similar protection for the "*formulation* of the terms" of a marketing order.

Combining a broad antitrust immunity with comprehensive regulation of bargaining and terms of sale, these provisions of H.R. 10355 could be effectively employed to remove all traces of competition from the production and sale of agricultural commodities.

Growers' committees, appointed by the Secretary of Agriculture, would have the authority to regulate *every phase* of marketing and processing agricultural commodities. This regulation could vary from regional—or nationwide—collective bargaining, to the establishment of quotas, allocation of markets, and stipulation of price.

The effect upon the nation's economy of a measure such as this is difficult to predict, but it is safe to say that canners would not be the only group that would be seriously affected. The public would almost certainly pay increasingly higher prices for food.

A final amendment to the Agricultural Marketing Agreement Act of 1937 proposed in H.R. 10355 provides that section 8c(11) be amended to read, in part:

"(A) Any order issued under this section may be made applicable to any or all production or marketing areas of any commodity or product thereof, as the Secretary finds practicable, consistent with carrying out the declared policy of the Act, as amended."

Thus, nationwide marketing orders are expressly authorized and contemplated. One committee appointed by the Secretary could have virtually unlimited authority over the production, distribution, pricing, and marketing of the total national supply of an agricultural commodity.

The removal of competition from the agricultural segment of the American economy, and the elimination of virtually all safeguards designed to protect the public from monopolistic practices in the production and distribution of food products, are indeed significant departures from the traditional principles governing Congressional action. The National Canners Association firmly believes that it is to the interest of the country as a whole, as well as growers, processors and distributors of food products, that Title I, Part I of H.R. 10355 not be enacted.

Summary and Conclusions

It is the position of the National Canners Association that:

(1) The elaborate controls authorized by compulsory marketing order legislation would be undemocratic as applied to canners, and would result in regimentation of the canning industry, in that a marketing order can be issued upon the basis of grower approval over the objections of *all* processors who would be governed thereby. In addition, administrative committees would not necessarily have canner representation. Canners would be subject to extensive regulation of their business activity by a group of their suppliers, but the canners would bear the expenses of the regulation and would be exposed to the risk of penalties.

(2) Mandatory marketing orders are anti-competitive in that they substitute economic regulation for free competition. Flexibility, incentive, growth and development are all sacrificed.

(3) Every phase of the canner's business operations would be controlled if compulsory marketing orders were applied to canned foods and canning crops. A canner could be told from whom he may buy his raw product, in what amounts, what quality, size and grade, and at what price. Similar controls could be placed on the production and marketing of the canned product.

(4) No evil has been shown to exist to justify the authorization of mandatory marketing orders for canning crops. Canned foods have continued their phenomenal record of growth and development, free of regulatory restraints.

(5) The regulatory scheme authorized by compulsory marketing order legislation would restrain the development and restrict the growth of

canned foods. Any system embodying crop limitation could be disastrous in years of crop loss. The historical basis of production allocations limits entry and encourages indifferent farming practices. Artificially raised prices for canned foods could drive customers to alternative products, and permanently reduce the consumer demand for canned fruits and vegetables.

(6) The consumer would almost certainly lose from any system of restricted production, increased prices, and reduced competition. Growers committees would have neither the knowledge nor experience to reflect consumer tastes and demands for canned foods.

(7) The provisions of H.R. 10355 broadening antitrust immunity under marketing orders, authorizing national marketing orders, and providing for collective bargaining and stipulation of prices for the raw product, would vastly expand the already broad provisions of the Agricultural Marketing Agreement Act of 1937. Competition in the production, processing and distribution of most food products would be virtually eliminated, and all antitrust safeguards against monopolistic and anti-competitive practices would be removed.

In conclusion, the National Canners Association respectfully urges that Congress not enact Title I, Part I of H.R. 10355, in the interests of growers, processors, distributors, consumers, and the general public.

True Story

Appearing in the May issue of *True Story* magazine is the article "Ground Beef and . . ." by Esther Foley, home service director. Miss Foley features canned foods in each of the 12 recipes given and in the menu which is handsomely illustrated in a color photograph.

"Condensed soup, tomato juice, spices, egg, or minced vegetables, heated and cooked to a saucy texture, now rival the plain hamburger in popularity!" says the author.

The recipes, which have been submitted to the magazine by readers, use the following canned foods: Tomato sauce is used in five of the recipes, ketchup in three, and tomato juice is used in two recipes and as the first course of the menu. Canned tomato soup, tomato paste, chicken gumbo soup, mushroom soup, and pork and beans are each used in one recipe.

Cooking for One and Two

Cooking for One and Two, a new cookbook by Bernard L. Wile, Washington, D. C. public relations man, features a wide variety of canned foods. Hearthside Press, Inc., New York, is the publisher.

The book is described as a "cheerful new cookbook." Written in a conversational style, it encourages cooking as a pleasant and challenging procedure rather than as a drudgery. From the practical standpoint most of the meals require a half-hour or less to prepare, call only for equipment and utensils available in average kitchens, and use readily available food ingredients. A shopping list is given with each menu.

Mr. Wile focuses attention in the first chapter on a well-stocked kitchen. Included is a section on canned foods. Mr. Wile says, "Keep a few small cans . . . always on hand as a sort of basic larder." In the suggested lists he includes canned fruits, meats, chicken, fish and sea food, vegetables, juices, and soups.

The second chapter features 30 suggested dinner menus for one person. Twenty-five of the menus use from one to five canned foods. Chapter three, "Seduction A Deux," includes 14 gourmet dinners for two with 13 containing from one to eight canned foods. Each of the four dinner party menus in the fourth chapter, "Company For Dinner," uses canned foods.

At the close of the book is an interesting chart which lists leftover foods, how to store, where to store, how long to store, and "use for what."

Culinary Review

Canned Foods' Contribution to Good Eating in the '60's was the subject treated on the editorial page of the March issue of *Culinary Review*, the chef's national magazine. The material in the editorial was prepared jointly by the Information Division and the Consumer and Trade Relations Program.

Editor George Serra introduced the article as follows: "Once more *Culinary Review* departs from its customary format to publish an editorial from the National Canners Association. We hope that other associations, whose research and marketing programs of inestimable value to the food industry as a whole, will keep us informed of new developments either as a news release or as an editorial contribution."

BDSA Containers Division

John P. Gleason of Toledo, Ohio, an official of Kimble Glass Co., an Owens-Illinois subsidiary, has been named Assistant Director for Mobilization Planning, Containers and Packaging Division, Business and Defense Services Administration, U. S. Department of Commerce.

U. S. News & World Report

The cover story in the April 11 issue of *U. S. News & World Report* is titled "What To Eat To Live Longer." The article is written in the form of an interview with Dr. W. Henry Sebrell, Jr., professor of public health nutrition at Columbia University and director of the Institute of Nutrition Sciences there.

Pointing out that some deterioration takes place in all fruits and vegetables en route from field to kitchen, Dr. Sebrell states that "the vitamin values are pretty well preserved" in canned and frozen foods. "They may be even better than the fresh product," he says, "if it has been mishandled or been a long time in transit or storage."

On the subject of synthetic vitamins, Dr. Sebrell says, "I see no objection to adding vitamins back. I wouldn't see any objection to, say, taking a can of fruit juice and putting vitamin C in it. The Canadians permit this with apple juice, because it happens that apple juice is naturally low in Vitamin C, anyhow. The apple doesn't have much vitamin C compared with citrus fruits, and canned apple juice is quite low in Vitamin C, so the Canadians put synthetic C in it. And why not? I don't see any reason for not doing it."

Telecast on Sesquicentennial

Johns Hopkins File 7, an ABC network television show originating from Baltimore, will present a 30-minute documentary on the Sesquicentennial of the Tin Can on Sunday, April 24, according to an announcement by the Can Manufacturers Institute. The original show is video-taped 12-12:30 p.m. EST on that date and usually is broadcast at that hour over most other ABC-TV stations in other time zones. N.C.A. members wishing to tune in on the program, however, should check their local program listings for time and station.

Commerce Dept. Plans Meeting on Promoting Food Exports

The U. S. Department of Commerce plans to hold a meeting in Washington August 9 at which representatives of the food industry will be invited to offer suggestions on steps the Government might take to stimulate exports.

The conference will be one of a series being held by the Department as a part of the new National Export Expansion Program, under which the Government seeks to reduce foreign barriers to trade and to encourage exports of U. S. goods.

The Commerce Department has been holding meetings each week with representative groups of American business, for the announced purpose of receiving businessmen's views on measures the Government might take to accelerate exports and on particular trade restrictions that handicap their sales. The Department plans to use the facts and arguments presented at these conferences to advocate further favorable response when U. S. representatives meet with the representatives of other governments during tariff and trade negotiations later this year.

It is expected that the agenda for the food industry conference of August 9 will be developed as the current series of meetings progresses, and that the Department will select the participants.

The National Export Expansion Program was formalized recently by the President. It involves a number of activities by the executive departments to stimulate growth and expansion of U. S. export trade. One of the objectives is to reverse the current trend in international payments, which in 1959 produced a deficit of $3.7 billion for the U. S.

The Secretary of Commerce has established a five-member Export Expansion Committee of national business leaders to organize a sustained effort by private industry to promote the export trade expansion program.

Members of the Committee are Leonard F. McCollum, president of the Continental Oil Co., Houston, and vice chairman of the Business Advisory Council, chairman; and Rudolph F. Bannon, president of Bridgeport (Conn.) Machines and president of the NAM; Donald K. David, Osterville, Mass., vice chairman of the Ford Foundation; Arthur H. Motley, publisher of *Parade* and president-elect of the Chamber of Commerce of the U. S.; and Morehead Patterson, chairman of American Machine and Foundry Co.

One of their objectives is to interest management of companies that have not been active in the foreign market.

USDA Export Promotion Study

The USDA is conducting an over-all review of current export policies, programs, and activities as a basis for further expanding its agricultural trade promotion activities, as called for by the President.

The USDA's agricultural export review includes such elements as trade barrier removal, quality, credit, pricing, promotion activities of government and industry, and government financed exports under the "Food for Peace" concept.

The review is being conducted by USDA staff members. At an early date, it was announced, consultations with other Departments of government and private agricultural and trade groups are contemplated.

Canned Fruits under P.L. 480

USDA announced April 13 the issuance of an authorization to Finland to purchase $75,000 worth of canned fruit from U. S. suppliers under Title I of P.L. 480.

Authorization 18-23 provides for purchase of $75,000 worth (approximately 12,000 cases) of canned applesauce, peaches, pears, and fruit cocktail (mixed fruits and fruit salad). Contracts made between April 20 and June 30 will be eligible for financing. Delivery will be to importer, f.a.s. vessel, U. S. ports. Shipments must be made by July 30.

Information concerning purchases may be obtained from Paavo Laitinan, Embassy of Finland, 1900 24th St., N.W., Washington 8, D. C. (telephone 202 HO 2-0556).

USDA To Donate Pea Beans

USDA announced April 12 that pea beans taken over under the 1959 price support operation in Michigan and not sold by June 1 will be donated through domestic outlets.

USDA will continue to offer pea beans for sale at the market price, but not less than a minimum price for April of $6.83 per hundredweight, for U. S. No. 1 beans f.o.b. Michigan points of production with the amount of infreight to be added as applicable.

Approximately 180,000 hundredweight of 1959-crop pea beans were taken over in Michigan under price support, and no sales have been made as yet, according to USDA.

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